

EXHIBIT U

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

EMG TECHNOLOGY, LLC,

Plaintiff,

vs.

APPLE, INC., AMERICAN AIRLINES,
INC., DELL, INC., HYATT
CORPORATION, MARRIOTT
INTERNATIONAL, INC. & BARNES &
NOBLE, INC.,

Defendants.

DEPOSITION OF:

GRANT GOTTFURCHT

WEDNESDAY, DECEMBER 16, 2009

10:19 A.M.

Reported by: SUSAN LYNN POBOR

CSR No. 5132

<p style="text-align: right;">Page 86</p> <p>1 Q. And you heard your lawyer, Mr. Becker, 2 tell the judge that you and your father were 3 unsophisticated with respect to technology. 4 Right? 5 A. I don't recall if those were his exact 6 words. 7 Q. Is that an accurate statement? 8 A. I don't -- I don't recall. 9 Q. I'm not asking whether those were the 10 exact words. 11 Is it an accurate statement that you and 12 your father are unsophisticated with respect to 13 technology? 14 A. You'd have to define "unsophisticated." 15 Q. As you would normally understand that 16 word. 17 MR. BECKER: Object. Form. 18 THE WITNESS: I think there's different 19 degrees of being unsophisticated. You would have to 20 be specific. 21 BY MR. STEPHENS: 22 Q. Okay. So you disagree? 23 You'd say that you are not 24 unsophisticated with respect to technology. 25 Is that right?</p>	<p style="text-align: right;">Page 88</p> <p>1 A. I don't know. Maybe he had an 2 understanding of what he was telling him. 3 Q. So you didn't understand what Mr. Becker 4 meant when he said to the judge that you and your 5 father are unsophisticated with respect to technology. 6 Is that right? 7 A. No. 8 Q. Okay. What -- 9 A. I just -- I didn't think about it at the 10 time. 11 Q. Okay. 12 A. I didn't even know -- I don't even know 13 if those were the exact words he used. 14 I would have to -- you know, maybe if 15 there's a transcript and I could read it back and then 16 I could hypothetically -- 17 Q. Are you denying that he used those 18 words? 19 A. I don't recall, I really don't. 20 Q. Okay. Do you think they're accurate or 21 not? 22 MR. BECKER: Object. Form. 23 THE WITNESS: Again, I don't know. 24 BY MR. STEPHENS: 25 Q. Okay. Now, he also told the judge that</p>
<p style="text-align: right;">Page 87</p> <p>1 A. I'm not a programmer, I'm not an 2 engineer. If that's your definition of being 3 sophisticated, then I'm unsophisticated in that aspect 4 of technology. 5 Q. I don't have a definition. I'm asking 6 the way you interpreted what Mr. Becker told the 7 judge. 8 MR. BECKER: Object. Form. 9 BY MR. STEPHENS: 10 Q. Do you agree what he told the judge was 11 true with respect to you and your father's level of 12 sophistication regarding the technology? 13 A. It's a broad statement, so I would 14 not -- I would not be able to answer as to Mr. -- my 15 attorney, what he was inferring. 16 Q. So you don't know whether what he told 17 the judge was true or not? 18 MR. BECKER: Object. Form. 19 THE WITNESS: I don't know what he was 20 thinking when he used the word "unsophisticated." 21 Q. Well, neither did the judge. 22 Right? 23 MR. BECKER: Object. Form. 24 BY MR. STEPHENS: 25 Q. Right?</p>	<p style="text-align: right;">Page 89</p> <p>1 you're not experts in the field. 2 Is that accurate? 3 A. Could be. 4 Q. "Yes" or "no"? 5 Is it? 6 A. If experts are defined as programmers 7 and -- and, you know, people who are -- work daily in 8 the field of engineering or programming or have 9 degrees, then that would be accurate. 10 Q. Is that what you understood Mr. Becker 11 to mean when he told the judge you were not experts in 12 the field? 13 A. No. 14 Q. What did you understand it to mean? 15 A. I didn't even think about it. There was 16 a conversation, there was a lot of people on the 17 phone. There was, I think, ten people in conference, 18 and things were going back and forth, and I didn't 19 really understand it to mean anything -- 20 Q. Okay. 21 A. -- at the time. 22 Q. He also -- Mr. Becker also told the 23 judge that you and your father had helped capturing 24 the inventions you conceived. 25 Do you remember that?</p>

<p style="text-align: right;">Page 158</p> <p>1 And so it made sense for me to -- as a 2 salesperson, to hang it under him; therefore, I would 3 be able to get a full commission on -- on a 4 real estate transaction. 5 So as far as looking for clients to buy 6 and sell real estate, that was something I was doing 7 on my own. 8 Q. Did your father back you in any of your 9 real estate ventures? 10 A. He might have loaned me some money on 11 some of the spec homes I had done. 12 Q. Is he an investor in your yoga activity? 13 A. No, he's not. 14 Q. Do you have any outside investors in 15 that? 16 A. No, I do not. 17 Q. Have you discussed with your father what 18 you will do with the proceeds from this lawsuit? 19 A. The only thing discussed is giving a 20 part of it to charity, 50 percent to charity. 21 Q. What's your understanding of what will 22 happen with the rest? 23 A. That it would be put into, I guess, EMG. 24 Q. Would it end up in the trusts? 25 A. I don't know exactly.</p>	<p style="text-align: right;">Page 160</p> <p>1 there. 2 A. I have 497 and 196. 3 My overall understanding of what he did 4 was work on some of the graphical interfaces. 5 Q. Anything else? 6 A. I don't know. 7 Q. Okay. 8 A. I know he was part of the group at 9 Online Labs. I don't know what input he had in some 10 of these flow charts. He might have had some input, 11 he might have not. I don't know. 12 Q. When is the first time that you met with 13 patent lawyers in connection with the invention? 14 A. Probably the first week of July of 1999. 15 Q. What do you remember about that meeting? 16 A. I don't recall a lot about the meeting. 17 Q. Do you remember where it was? 18 A. It's been awhile. 19 I don't recall if it was first by phone 20 or if we went into his office, Tom Coester. The firm 21 was Blakely Sokoloff, and his offices I believe were 22 in West L.A. 23 Q. Do you remember anything else about that 24 meeting? 25 A. Not specifically beyond what I've told</p>
<p style="text-align: right;">Page 159</p> <p>1 Q. What's your expectation? 2 A. I would assume that it would. 3 Q. And that ultimately, you'd be the 4 beneficiary of at least part of the money that comes 5 into this lawsuit. 6 Right? 7 A. Yes. 8 Q. I'm handing you E. Gottfurcht 12. 9 Take a look at that and tell me if 10 you've seen that before. 11 A. I don't recall. 12 Q. What's your understanding of the role of 13 the other inventors in the patents in this lawsuit? 14 A. They were hired to work on some of the 15 technical specifications for the patent. 16 Q. And what did they do? 17 A. They put together some flow charts and 18 diagrams. 19 Q. Anything else? 20 A. Not that I could recall. 21 Q. What's your understanding of Mr. Long's 22 contribution to the 845 patent? 23 A. The 845? 24 Do you have a copy of that? 25 Q. It should be one of those you have</p>	<p style="text-align: right;">Page 161</p> <p>1 you. 2 Q. Who participated besides you and 3 Mr. Coester? 4 A. Elliot Gottfurcht. 5 Q. Anybody else? 6 A. No. 7 Q. Now, can you tell me the difference 8 between the 459 patent and the 845 or 196 patent? 9 The disclosures are different, and I'd 10 like for you to tell me your understanding of why 11 they're different. 12 A. Can you repeat which patents you're 13 talking about? 14 Q. Yeah. What -- you've got the -- tell me 15 which ones you have. 16 A. 196, 497. 17 Q. Okay. Yeah, what's the difference 18 between the disclosures in those two patents? 19 A. There's different dates. 20 Q. Yeah, one is later. 21 Right? 22 A. Yes. One was issued July 29, 2003; one 23 was October 21st, 2008. 24 Q. I'm wondering where the 845 patent went. 25 Is it in that stack somewhere?</p>

<p style="text-align: right;">Page 178</p> <p>1 A. Pressing the screen if the button's on 2 the screen. 3 Q. Yeah, okay. I -- I don't mean virtual 4 buttons on the screen. I mean like a keyboard button. 5 You didn't mean that. 6 Right? 7 A. No. 8 Q. Okay. So as you understood it, 9 "manipulating a region of the screen for scrolling 10 and/or zooming" meant only touching something on the 11 screen. 12 Is that right? 13 MR. BECKER: Object. Form. 14 THE WITNESS: It was -- it was my -- yeah, 15 that's what I envisioned. 16 BY MR. STEPHENS: 17 Q. Okay. Did someone else come up with the 18 idea of pushing a physical button to cause scrolling 19 and/or zooming? 20 A. I don't know. I don't recall. 21 Q. You're not aware of anybody coming up 22 with that idea? 23 A. I don't recall. 24 MR. STEPHENS: Okay. I have no more 25 questions.</p>	<p style="text-align: right;">Page 180</p> <p>1 (Whereupon the deposition was concluded 2 at 4:28 p.m.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 179</p> <p>1 I do want to say, though, that we did 2 address the issue of the assertion of privilege today, 3 but I don't think we addressed the issue of waiver of 4 privilege, so we still may revisit that issue. 5 But I don't have any more questions. 6 MR. BECKER: Anything further? 7 Is American asking questions? 8 MR. GENET: No, not today. 9 MR. BECKER: Okay. Thank you. 10 No questions for me. 11 THE VIDEOGRAPHER: This concludes Volume I in 12 the deposition of Grant Gottfurcht. 13 The number of tapes used was two. The 14 original videotapes will be retained by Merrill Legal 15 Solutions, Woodland Hills. 16 Going off the record. 17 The time is 4:26 p.m. 18 COURT REPORTER: And I'll send you both your 19 roughs. 20 MR. STEPHENS: Thank you. 21 MR. BECKER: Thank you. 22 COURT REPORTER: And you just want the copy, 23 no rough. 24 Correct? 25 MR. GENET: Yes, thank you.</p>	<p style="text-align: right;">Page 181</p> <p>1 PENALTY OF PERJURY 2 3 4 5 I hereby declare I am the deponent in the 6 within matter; that I have read the foregoing 7 proceeding and know the contents thereof and I declare 8 that the same is true of my knowledge except as to the 9 matters which are therein stated upon my information 10 or belief, and as to those matters I believe it to be 11 true. 12 I declare under penalty of perjury that the 13 foregoing is true and correct. 14 Executed on the _____ day of 15 _____, 2009, at _____, 16 California. 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">_____ GRANT GOTTFURCHT</p>

1 STATE OF CALIFORNIA)

2) ss.

COUNTY OF LOS ANGELES)

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4 I, SUSAN LYNN POBOR, Certified Shorthand

5 Reporter No. 5132 for the State of California, do

6 hereby certify:

7 That prior to being examined, the witness

8 named in the foregoing deposition, was duly sworn to

9 testify the truth, the whole truth, and nothing but

10 the truth;

11 That said deposition was taken down by me in

12 shorthand at the time and place therein named and

13 thereafter reduced by me to typewritten form and that

14 the same is a true, correct, and complete transcript

15 of said proceedings.

16 Before completion of the deposition, review of

17 the transcript [X] was [] was not requested. If

18 requested, any changes made by the deponent (and

19 provided to the reporter) during the period allowed

20 are appended hereto.

21 I further certify that I am not interested in

22 the outcome of the action.

23 Witness my hand this ____ day of

24 _____, 2009.

25

Susan Lynn Pobor, CSR No. 5132